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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,812	12/29/2000	Hartley C. Starkman	60709-00008	8464

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John S. Beulick  
Armstrong Teasdale LLP  
One Metropolitan Sq., Suite 2600  
St. Louis, MI 63102

EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
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3624

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/751,812

**Applicant(s)**

STARKMAN, HARTLEY C.

**Examiner**

Lalita M Hamilton

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20040721.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### DETAILED ACTION

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-5 and 14-15 are rejected for the following reasons:

In the above claims, "number of days" lacks antecedent basis.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

35 USC 101 requires that in order to be patentable the invention must be a "new and useful process, machine, manufacture, *or* composition of matter, *or* any new and useful improvement thereof" (emphasis added).

Claims 1-10 are rejected under 35 U.S.C. § 101 because; the claimed invention is directed to a non-statutory subject matter. Specifically the method claims as presented do not claim a technological basis in the pre-amble and the body of the claim. Without a claimed basis, the claim may be interpreted in an alternative as involving no more than a manipulation of an abstract idea and therefore non-statutory under 35 U.S.C. 101. In contrast, a method claim that includes in the body of the claim structural / functional interrelationship which can only be computer implemented is considered to have a technological basis [See Ex parte Bowman, 61

USPQ2d 1669, 1671 (Bd. Pat. App. & Inter. 2001) - used only for content and reasoning since not precedential].

In order to over come the 101 rejection above, the following preamble is suggested:

"A computer implemented method for ---", or something similar. Also, in the body of the claim include structural / functional interrelationship which can only be computer implemented.

Claims 11-20, claim a system. However, the preamble does not indicate that the system is computer-implemented. Appropriate correction is required.

In order to over come the 101 rejection above, the following preamble is suggested:

"computer-implemented system comprising ---", or something similar.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-22 are rejected under 35 U.S.C. 102(e) as being anticipated by McCauley (6,067,533).

McCauley discloses a method and corresponding system for distressed loans comprising modeling collections for collateral based distressed loans in volatile markets wherein future monthly cash inflows are predicted comprising the steps of categorizing loans based on prior month's payments, categorizing loans based on delinquency, comparing payments to contractual obligations and projections, and incorporating

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management feedback into expectations of future performance (fig.1-2 and 4-all and col.4, line 55 to col.7, line 40); categorizing loans based on prior month's payments further comprising the steps of separating out un-collectable loans and dividing collectable loans by recent payment performance into categories of multiple payments, one payment, and no payments (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); determining delinquency for each account and categorizing accounts by contractual delinquency (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); determining delinquency further comprises the step of calculating the number days delinquent based on contractual terms (col.7, line 60 to col.8, line 10); determining delinquency further comprises the step of calculating the number days delinquent based on date loan was acquired (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); determining contractual obligations for each category of delinquency, determining the amortization rate on contractual obligations for each category of delinquency, analyzing prior month's performance on an account by account basis and grouping accounts, comparing payment to contractual obligation and to projected amount grouped by category of delinquency, and comparing recent performance to prior performance (col.8, line 19 to col.10, line 5); placing a greater weight on recent performance (fig.1-2 and 4-all; col.4, line 55 to col.7, line 40; and col.8, line 19 to col.10, line 5—performed by system); reporting changes in performance to management, making changes to collection strategies based on management feedback and applying changes in collection strategies to expectations of future performance (fig.1-2 and 4-all and col.4, line 55 to col.7, line 40); modeling collection assumptions to predict future

cash flow (fig.1-2 and 4-all and col.4, line 55 to col.7, line 40); providing a separate category for each of zero months through eighteen months delinquent (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); a computer configured to categorize loans based on prior month's payments, categorize loans based on delinquency, compare payments to contractual obligations and projections and incorporate management feedback into expectations of future performance (fig.1-2 and 4-all and col.4, line 55 to col.7, line 40); separate out un-collectable loans and divide collectable loans by recent payment performance into categories of multiple payments, one payment, and no payments (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); determine delinquency for each account and categorize accounts by contractual delinquency (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); calculate the number days delinquent based on contractual terms ((col.7, line 60 to col.8, line 10); calculate the number days delinquent based on a date the loan was acquired (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); determine contractual obligations for each category of delinquency, determine the amortization rate on contractual obligations for each category of delinquency, analyze prior month's performance on an account by account basis and group accounts, compare payment to contractual obligation and to projected amount grouped by category of delinquency, and compare recent performance to prior performance (col.8, line 19 to col.10, line 5—performed by system); compare recent performance to prior performance by placing a greater weight on recent performance (fig.1-2 and 4-all; col.4, line 55 to col.7, line 40; and col.8, line 19 to col.10, line 5); report changes in loan performance, make changes

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to collection strategies based on feedback, and apply changes in collection strategies to account for expectations of future performance (fig.1-2 and 4-all; col.4, line 55 to col.7, line 40; and col.8, line 19 to col.10, line 5); predict future cash flow (fig.1-2 and 4-all; col.4, line 55 to col.7, line 40; and col.8, line 19 to col.10, line 5); provide a separate category for each of zero months through eighteen months of loan delinquency (fig.4-all and col.8, line 20 to col.10, line 4-performed by system); computer is configured as a server comprising at least one computer and a network connecting said server to said at least one computer (col.7, line 43 to col.8, line 16); and the network is at least one of a WAN or a LAN (col.7, line 43 to col.8, line 16).

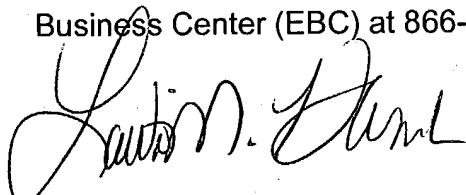
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LMH